

United States District Court
Central District of California

In re:

CITY OF SAN BERNARDINO,
CALIFORNIA,

Debtor.

SAN BERNARDINO CITY
PROFESSIONAL FIREFIGHTERS,
LOCAL 891; GREGORY PARKER; SAM
BASHAW; CHRIS NIGG; THOMAS
JEFF ENGLISH; RICHARD LENTINE;
STEVE TRACY; and KENNETH
KONIOR,

Appellants,

v.

CITY OF SAN BERNARDINO,
CALIFORNIA; and ALAN PARKER,

Appellees.

Case № 5:15-cv-01562-ODW

U.S. Bankruptcy Court Case Nos.

Adverse Action: 6:15-ap-01119-MJ

Main Action: 6:12-bk-28006-MJ

**REQUEST FOR SUPPLEMENTAL
BRIEFING**

1 After reviewing the briefs and excerpts of record filed in this appeal, the Court
2 requests that the parties submit briefing on the following issues:

3 (1) Whether the City of San Bernardino is still considering outsourcing
4 firefighting services to a private entity, and thus if the question whether state law
5 prohibits the outsourcing of firefighting services to a private entity is moot. *See*
6 *Calderon v. Moore*, 518 U.S. 149, 150 (1996) (issues that are mooted by intervening
7 events after an appeal is taken should be dismissed).

8 (2) Whether there are any disputed issues of fact with respect to the
9 foregoing question that must be determined by the bankruptcy court in the first
10 instance, *see Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S.
11 167, 193–94 (2000), or whether this Court may determine the issue as a matter of law
12 on appeal.

13 (3) Whether, if the issue is indeed moot, the bankruptcy court's factual
14 and/or legal findings with respect to that issue should be vacated in addition to
15 dismissing that portion of the appeal. *See NASD Dispute Resolution, Inc. v. Judicial*
16 *Council of State of Cal.*, 488 F.3d 1065, 1068 (9th Cir. 2007).

17 Appellee City of San Bernardino shall file a brief addressing the above-
18 referenced issues on or before **December 4, 2015**. Appellants shall file a responsive
19 brief on or before **December 18, 2015**. Each brief shall not exceed ten pages. The
20 parties may also file any documents that are relevant to these issues and that are
21 appropriate for consideration on appeal.

22
23 **IT IS SO ORDERED.**

24 November 23, 2015

25
26 

27 **OTIS D. WRIGHT, II**
28 **UNITED STATES DISTRICT JUDGE**